



United States Attorney
Southern District of New York

MEMO ENDORSED

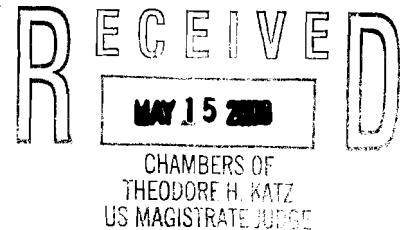
86 Chambers Street
New York, New York

May 16, 2008

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VIA FACSIMILE

Hon. Theodore H. Katz
United States Magistrate Judge
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street, Room 1660
New York, NY 10007



Re: Scarbough v. United States,
07 Civ. 6695 (HB) (THK)

Dear Judge Katz:

This Office represents the defendant in the above-captioned medical malpractice action filed by plaintiffs James and Christine Scarbough. The current deadline for fact discovery is May 15, 2008, and the cutoff for expert discovery is July 20, 2008. I write respectfully to request that the parties be permitted to continue fact discovery through July 20, 2008. The deadline for the completion of all discovery would remain unchanged.

There are two reasons for this request. First, both of the Scarboughs testified at their respective depositions that they were unemployed for all of 2007. However, their tax return for that year indicates that they earned over \$24,000 in wages. It appears that distributions to Mr. Scarbough from his pension may have been counted as wages, but to clarify the issue I have asked the Scarboughs to produce all tax returns and other tax documents, such as W-2s, going back to 2000, and am awaiting receipt of those documents.

Second, the Government has served nine third-party subpoenas, and has yet to receive documents from three third parties that were served approximately two months ago. Specifically, I have not yet obtained Mr. Scarbough's medical records from Bellevue Hospital, where he underwent several surgeries to amputate part of his foot shortly after being treated by the federally funded medical facility about whose treatment he now complains. These records are particularly important, as plaintiffs claim that the surgeries would not have been required absent the alleged malpractice by the federally funded facility. I also have not received a response from Mr. Scarbough's pharmacy, nor from a podiatrist who has been treating Mr. Scarbough since his surgery.

I have been in contact with all three of these third parties subsequent to serving them with the subpoenas, and all three have indicated that they intend to send me the requested documents shortly.

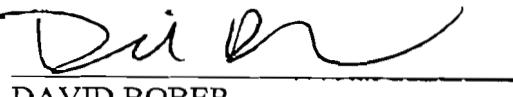
I have spoken with Jeffrey Shapiro, counsel for the plaintiffs, and he has no objection to this request.

I thank the Court for its consideration of this request.

Respectfully submitted,

MICHAEL J. GARCIA
United States Attorney for the
Southern District of New York

By:



DAVID BOBER
Assistant United States Attorney
(212) 637-2718

cc: Jeffrey Shapiro, Esq. (via facsimile)

*Fact discovery will be completed
by July 20, 2008.*

SO ORDERED

5/18/08


THEODORE H. KATZ
UNITED STATES MAGISTRATE JUDGE